

January 30, 1997

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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**CORRECTED REPORT AND RECOMMENDATION TO THE
METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: Department of Development and Environmental Services File No. **L96P0008**
Proposed Ordinance No. **96-969**

WESTWOOD

Preliminary Plat Application

Location: Between South 191st (if extended) and South 192nd Street,
and Fourth Avenue South and Sixth Avenue South
Owner: Lois Ohlson
430 South 192nd Street
Seattle, WA 98118
Developer/Applicant: Centex Homes
2320 - 130th Avenue NE, #200
Bellevue, WA 98005
Engineer: Hugh Goldsmith & Associates
1215 - 114th Avenue SE
Bellevue, WA 98004

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary: Deny
Division's Final: Approve, subject to conditions
Examiner: Approve, subject to conditions

PRELIMINARY MATTERS:

Application submitted: March 12, 1996
Notice of complete application: March 12, 1996

EXAMINER PROCEEDINGS:

Hearing Opened: January 14, 1997, 9:15 a.m.
Hearing Closed: January 14, 1997, 11:15 a.m.
Examiner's First January 22, 1997
Report

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Road safety and design (entering sight distance)
- Surface water drainage
- recreation facilities (fee-in-lieu)

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner:	Lois Ohlson 430 South 192nd Street Seattle, WA 98118
Developer/Applicant:	Centex Homes 2320 - 130th Avenue NE, #200 Bellevue, WA 98005
Engineer:	Hugh Goldsmith & Associates 1215 - 114th Avenue SE Bellevue, WA 98004
STR:	32-23-4
Location:	Between South 191st (if extended) and South 192nd Street, and Fourth Avenue South and Sixth Avenue South
Zoning:	R-6
Acreage:	2.79
Number of Lots:	18
Density:	6.45 dwelling units per acre
Typical Lot Size:	4,300
Proposed Use:	Single-family detached dwellings
Sewage Disposal:	Southwest Suburban Sewer District
Water Supply:	Highline Water District
Fire District:	No. 26
School District:	Highline School District #401
Complete Application Date:	March 12, 1996

2. Centex Homes (the "Applicant") proposes to subdivide a 2.79 acre parcel into 18 single-family residential building lots with a proposed over-all density of 6.45 dwelling units per acre. As proposed, lot sizes range from approximately 3,780 to 6,290 square feet. The proposed preliminary plat drawing is contained in this hearing record as exhibit no. 19, which is attached to the preliminary report to the Hearing Examiner dated January 14, 1997 (exhibit no. 2).

3. An environmental impact statement is not required. On August 27, 1996 the Department of Development and Environmental Services (the "Department") issued its threshold determination of nonsignificance for the proposed development. That is, the Department announced its conclusion, in a manner prescribed by the Washington Administrative Code, that it had concluded that the proposed development would not cause probable significant adverse impacts upon the environment, considering its review of relevant environmental documents. No agency or person appealed that determination.
4. In its preliminary report to the Examiner, the Department recommended that the proposed plat be denied, principally due to unresolved entering sight distance and downstream drainage problems. Having considered all of the evidence and testimony presented, however, the Department reversed its position, recommending approval, subject to the conditions of final plat approval which begin on page 5 of this report to the Council. These recommended conditions of final plat approval are contained in the hearing record as follows:
 - A. **Exhibit No. 25** contains recommended condition nos. 1 through 6 and 9 through 16, which includes the standard conditions of final plat approval which apply to all proposed plats as well as specific controls which address the specific impacts and regulatory standards which apply to this site, neighborhood and development proposal.

Exhibit No. 25 provides also for the deletion and substitution of new language for recommended condition no. 16. This recommended condition addresses suitable recreation space and would have required the Applicant to set aside a specific area and to provide a "recreation space plan." As rewritten and as provided in exhibit no. 26, recommended condition no. 16 will allow the Applicant to pay a fee in lieu of recreation space which will be paid by the Applicant to King County, based upon calculation standards contained in KCC 21A.14.185.
 - B. **Exhibit No. 26** provides recommended condition nos. 7 and 8, addressing surface water drainage management. Recommended condition no. 8.c requires compliance with control measures sought by the City of Des Moines. See **Attachment A** of this report.
5. The Applicant accepts the Department's final recommendation as described in finding no. 4, preceding.
6. Relevant facts which enabled the Department to change its recommendation include these:
 - A. The least critical of the two issues brought to this hearing was the concern for entering site distance at the proposed entrance intersection with Fourth Avenue South. The Applicant has provided engineering drawings which demonstrate that a solution is reasonably feasible: minor regrading of Fourth Avenue South in the vicinity of the proposed plat entrance. Such regrading could be provided as a condition of roads variance approval, or could be provided instead of roads variance approval.
 - B. The more critical issue, described in section no. 3 of the Department's preliminary

report (exhibit no. 2), concerns downstream drainage. Because the drainage course preferred by engineers (as necessary to avoid flooding of a nearby closed depression) runs downstream through the City of Des Moines, any design which meets King County Surface Water Management Design Manual standards must also merit approval by the City of Des Moines. Exhibit no. 24 is a letter from Tim Heydon, P.E., City of Des Moines Public Works Director, which describes the procedures and conditions whereby the City of Des Moines would approve the portion of the preliminary plat of Westwood which is located within King County. The procedures would provide for final Des Moines City Council drainage system approval following County approval, and would provide opportunity to assure that the facilities would be developed consistent with City of Des Moines codes. The letter also sets forth specific conditions of final plat approval which are incorporated in the recommended conditions of final plat approval indicated below. Finally, the City of Des Moines asks for execution of an appropriate indemnification agreement between the County, City and Applicant. A proposed copy of such an agreement is attached as "Exhibit B" to exhibit no. 24 of this hearing record and is attached to this Examiner's report as **Attachment B**.

7. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated January 14, 1997 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.
8. Any portion of any of the following conclusions which may be construed as a finding is incorporated here by reference.

CONCLUSIONS:

1. It is common and ordinary for proposed plats to require downstream easements from private property owners. In such cases, a "letter of intent" is typically required from those downstream property owners. In this manner, the County is provided evidence that an appropriate, code compliant drainage solution may be reasonably expected. The facts in this case are analogous. Instead of requiring the preliminary assurance from a downstream property owner, this proposal requires the assurance of a downstream jurisdiction, the City of Des Moines. The exhibit no. 24 letter from Tim Heydon, P.E., Public Works Director, City of Des Moines, should be regarded as such a letter of intent. If it is not, then the Applicant will have been caught in a regrettable "Catch 22" which would not serve the public interest.
2. Recommended condition no. 8.e. is necessary because the City of Des Moines' review of the drainage plan follows King County approval.
3. An indemnification agreement should be effected which includes the City of Des Moines, generally as suggested in Attachment B of this report. This is necessary because the complete development spans the boundary dividing King County and Des Moines; and, because success of the overall development requires an integrated upstream (County) and downstream (Des Moines) drainage plan.
4. As indicated in finding no. 5, above, the entering sight distance problem, just as the down-

stream drainage problem, may reasonable be expected to be solved by implementing the recommended conditions of final plat approval. Consequently there should be no delay of preliminary plat approval.

5. If approved subject to the conditions required below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
6. If approved subject to the conditions required below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
7. The conditions for final plat approval required below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
8. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant, are reasonably necessary as a direct result of the development of this proposed plat.

RECOMMENDATIONS:

GRANT preliminary approval to the proposed plat of Westwood, Department of Development and Environmental Services file no. L96P0008, the Applicant's preliminary plat drawing dated March 12, 1996, SUBJECT to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall meet the base density and minimum density of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. This may result in the reconfiguration and/or loss of lots.

Note: One additional lot has been proposed as a result of density incentives for energy conservation regarding developments located within 1/4 mile of transit routes served on at least a half-hourly basis during the peak hours and hourly during the daytime non-peak hours [21A.34.040.F.4(c)].

4. The Applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Roads Standards established and adopted by Ordinance No. 11187, as amended.
6. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. If all lots are 35,000 square feet in size or more, or if the subdivision is outside an Urban Growth Area and is developed at a density no greater than one residential building lot per five (5) acres, or a cluster development outside an Urban Growth Area with lots under 35,000 square feet in size and offsetting permanent open space and is developed at a density no greater than one residential building lot per five (5) acres, the subdivision is exempt per KCC 17.08.030.
7. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04, except as provided with the King County Surface Water Design Manual Variance file no. L96V0074 and any future variances. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. The following conditions represent portions of the drainage requirements and shall apply to all plat approvals.
 - a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and updates which were adopted prior to the vesting date of the subdivision. DDES approval of the drainage and roadway plans is required prior to any construction. Where City of Des Moines requirements are in conflict with these requirements, the higher standard will apply.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots designated for individual lot infiltration or dispersion, the drainage systems shall be constructed at the time of the building permit and shall comply with the plans on file."
8. The following conditions outline several Core and Special Requirements in the 1990 SWM Drainage Manual which are particularly important for the design of this project. All other applicable requirements in the SWM Manual shall also be addressed in the design of site improvement plans.
 - a. Core Requirement No. 1 - Storm water shall be discharged at the natural location. The Applicant has received conditional approval for the requested variance regarding

diversion of surface water flows (see file no. L96V0074). The requirement for written concurrence by the City of Des Moines, as noted in the SWM variance conditions, has been acknowledged in a letter dated January 13, 1997 from Tim Heydon, P.E., Public Works Director. The remaining SWM variance conditions addressing this issue shall be accomplished prior to engineering plan approval. All City of Des Moines conditions as may be directed by Des Moines City Council shall be accomplished prior to engineering plan approval except as otherwise provided by the City of Des Moines.

- b. Core Requirement No. 2 - Downstream conveyance within the City of Des Moines portion of Westwood subdivision including the proposed infiltration facility must be approved by the City of Des Moines for operation prior to final plat approval. The downstream infiltration and conveyance facilities must be sized to accept the developed state drainage (without detention) from the King County Plat for the 100-year design storm. The storm duration event providing the larger capacity requirement shall be used independently for each design element. All conveyance facilities between the King County portion of the Plat of Westwood and the down-stream infiltration facility shall be located within public rights-of-way, City or County owned tracts or public storm drainage easements.
 - c. Core Requirement No. 3 - Runoff control must be provided onsite as required by Exhibit A of the City of Des Moines letter dated January 13, 1997. Biofiltration of storm water is also required for water quality enhancement.
 - d. Modifications to the above SWM conditions may be considered by King County pursuant to the variance procedures in KCSWDM 1.4.
 - e. If any of the above drainage conditions require significant revision which cannot be accomplished through surface water management variance review, the applicant may seek Examiner review in the same manner as an administrative appeal (in order to circumvent the lengthier, more cumbersome procedures required for plat reconsideration). See KCC 20.24.080 and conclusion no. 2 on page 4 of this report.
9. The following conditions specify the required road improvements:
- a. South 191st Place shall be improved as an urban subaccess street.
 - b. Fourth Avenue South shall be reconstructed to provide adequate entering sight distance for urban neighborhood collector standards. Additional reconstruction to South 190th Street and adjacent driveways may be required to provide necessary transition to the revised Fourth Avenue South road grade.
 - c. The east half of Fourth Avenue South shall be improved to urban neighborhood collector standards for the full frontage of the proposed plat. Improvements will include widening to provide a 16-foot pavement width transitioning to 18-foot pavement width within 150 feet of South 192nd Street for the east half of the roadway, measured from the centerline, and a vertical curb and sidewalk. The Applicant's engineering plans shall address the requirements of KCRS 4.01F regarding widening of

existing roads.

- d. The north half of South 192nd Street shall be improved to urban collector arterial standards for the full frontage of the proposed plat. Improvements will include widening to provide a minimum 18-foot pavement width for the north half of the roadway, measured from the centerline, and a vertical curb and sidewalk. The road grade shall be compatible with the existing street and proposed improvements on the south side of the street at this location. The Applicant's engineering plans shall address the requirements of KCRS 4.01F regarding widening of existing roads and KCRS 3.10 regarding bikeways. Existing utility poles must be relocated as necessary to comply with the placement requirements of KCRS 8.02G.
 - e. Tract C shall be owned and maintained by Lots 10, 11, and 12. Tract C shall be a minimum of 26 feet in width with a maximum length of 150 feet, measured from the centerline of South 191st Place. Tract C shall be improved as a private access tract consistent with KCRS 2.09B with concrete curbs, 22-foot-wide paved surface and controlled drainage.
 - f. Modifications to the above road conditions may be considered by King County pursuant to the variance procedures in KCRS 1.08.
- 10. There shall be no direct vehicular access to or from South 192nd Street from the lots in the subject plat which abut it. A note to this effect shall appear on the final plat and engineering plans.
 - 11. There shall be no direct vehicular access to or from Fourth Avenue South from Lot 1. A note to this effect shall appear on the final plat and engineering plans.
 - 12. A planter island, if proposed within the South 191st Place turnaround, shall be maintained by either the abutting lot owners or the homeowners' association. This shall be stated on the face of the final plat.
 - 13. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council, prior to plat recording.
 - 14. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid"; if the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 15. Lots within this subdivision are subject to King County Ordinance 10162 and Ordinance 12148 which imposed impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for

the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat received final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

16. A fee-in-lieu of recreation space shall be paid by the Applicant to King County. The amount of the fee shall be determined by the King County Parks Division, consistent with the provisions of KCC 21A.14.185.
17. An indemnification agreement generally as provided by Attachment B of this report shall be in effect at such time as required by King County and the City of Des Moines.

RECOMMENDED this 30th day of January, 1997.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 30th day of January, 1997, to the following parties and interested persons:

Troy Brown/Port of Seattle	Tim Heydon/City of Des Moines
C. T. Leider	Gary MacLean/City of Des Moines
Lois Ohlson	Sarah Proctor/Hugh Goldsmith
Loren Reinhold/City of Des Moines	Sea-King Co Health Department
John L. Scott Land Dept	Kevin Simmons/Centex Homes
Larry Smith/Attorney at Law	Tom Uren/Hugh Goldsmith
Joan Whittington	King Conservation District
Greg Borba, DDES/LUSD	Paulette Norman, KCDOT, Road Services Div
Marilyn Cox, DDES/LUSD/SEPA	Anne Knapp, DDES/LUSD/SEPA
Tom Koney, King County Council	Richard Lowe, DDES/LUSD
Michaelene Manion, DDES/LUSD	Lisa Pringle, DDES/LUSD
Carol Rogers, DDES/LUSD/SPRS	Steve Townsend, DDES/LUSD

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before **February 13, 1997**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before **February 20, 1997**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14)

calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, this decision of the Examiner shall be final and conclusive.

MINUTES OF THE JANUARY 14, 1997 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L96P0008 - WESTWOOD:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Anne Knapp, Richard Lowe, Larry Smith, and Tom Uren.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L96P0008
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the January 14, 1997 public hearing
- Exhibit No. 3 Application dated March 12, 1996
- Exhibit No. 4 Environmental Checklist dated March 12, 1996
- Exhibit No. 5 Declaration of Non-Significance dated August 27, 1996
- Exhibit No. 6 Affidavit of Posting, indicating March 25, 1996 as date of posting and March 26, 1996 as date affidavit was received by DDES
- Exhibit No. 7 Preliminary plat dated March 12, 1996
- Exhibit No. 8 Land use maps 353 E & W, 347 E & W
- Exhibit No. 9 Assessors maps NW 5-22-4, SW 32-23-4
- Exhibit No. 10 Level 1 Drainage Analysis prepared by Hugh Goldsmith & Associates, received March 12, 1996
- Exhibit No. 11 Twelve (12) photos of site taken by LUSD Staff on May 1, 1996
- Exhibit No. 12 Variance No. L96V0074 approval dated August 9, 1996 and approval request form application received July 8, 1996
- Exhibit No. 13 Letter from Port of Seattle dated September 9, 1996
- Exhibit No. 14 Report from Terra Associates to Centex Homes regarding subsurface exploration and geotechnical study, dated October 19, 1995
- Exhibit No. 15 Memo from Transpo Group to Centex Homes regarding traffic impacts, dated January 31, 1996
- Exhibit No. 16 Letter from Hugh Goldsmith & Associates to City of Des Moines regarding drainage, dated October 30, 1996
- Exhibit No. 17 RCW 58.17.130 code language
- Exhibit No. 18 Preliminary plat drainage plan map
- Exhibit No. 19 Preliminary plat map with highlights
- Exhibit No. 20 Entering sight distance map for Westwood
- Exhibit No. 21 Drainage patterns and boundaries map (existing)
- Exhibit No. 22 Drainage patterns and boundaries map (proposed)
- Exhibit No. 23 Applicant's draft conditions of approval for proposed plat of Westwood
- Exhibit No. 24 Letter dated January 13, 1997 from City of Des Moines to Examiner
- Exhibit No. 25 LUSD Staff proposed conditions 1-16
- Exhibit No. 26 LUSD Staff proposed new conditions 7 and 8

Attachment A City of Des Moines "Detailed Development Conditions"
Attachment B City of Des Moines "Proposed Indemnification Agreement"

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